

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MANHATTAN DIVISION**

CASE NO.: 1:23-cv-1325

JAMEY STILLINGS,

Plaintiff,

v.

SEEKING ALPHA INC. and DARREN
JAMES MCCAMMON,

Defendants.

COMPLAINT FOR COPYRIGHT INFRINGEMENT
(INJUNCTIVE RELIEF DEMANDED)

Plaintiff JAMEY STILLINGS by and through his undersigned counsel, brings this Complaint against Defendants SEEKING ALPHA INC. and DARREN JAMES MCCAMMON for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff JAMEY STILLINGS (“Stillings”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Stillings' original copyrighted Work of authorship.

2. Stillings is a photographer whose work spans decades. His past photographic work includes fine art, documentaries, and commissioned projects. His current long-term project is Changing Perspectives: Renewable Energy and the Shifting Human Landscape.

3. Defendant SEEKING ALPHA INC. (“Seeking Alpha”) is crowd-sourced content service for financial markets. At all times relevant herein, Seeking Alpha owned and operated the internet website located at the URL <https://www.seekingalpha.com> (the “Website”).

Defendant Darren James McCammon (“McCammon”) is a long-time Seeking Alpha writer, as well as operating “Cash Flow Kingdom” sub-service, a paid subscription service offered exclusively through Seeking Alpha.

Defendants Seeking Alpha and McCammon are collectively referred to herein as “Defendants.”

Stillings alleges that Defendants copied Stillings' copyrighted Work from the internet in order to advertise, market and promote their business activities. Defendants committed the violations alleged in connection with Defendants’ business for purposes of advertising and promoting sales to the public in the course and scope of the Defendants’ business.

JURISDICTION AND VENUE

7. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

8. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

9. Defendants are subject to personal jurisdiction in New York.

10. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Defendants engaged in infringement in this district, Defendants reside in this district, and Defendants are subject to personal jurisdiction in this district.

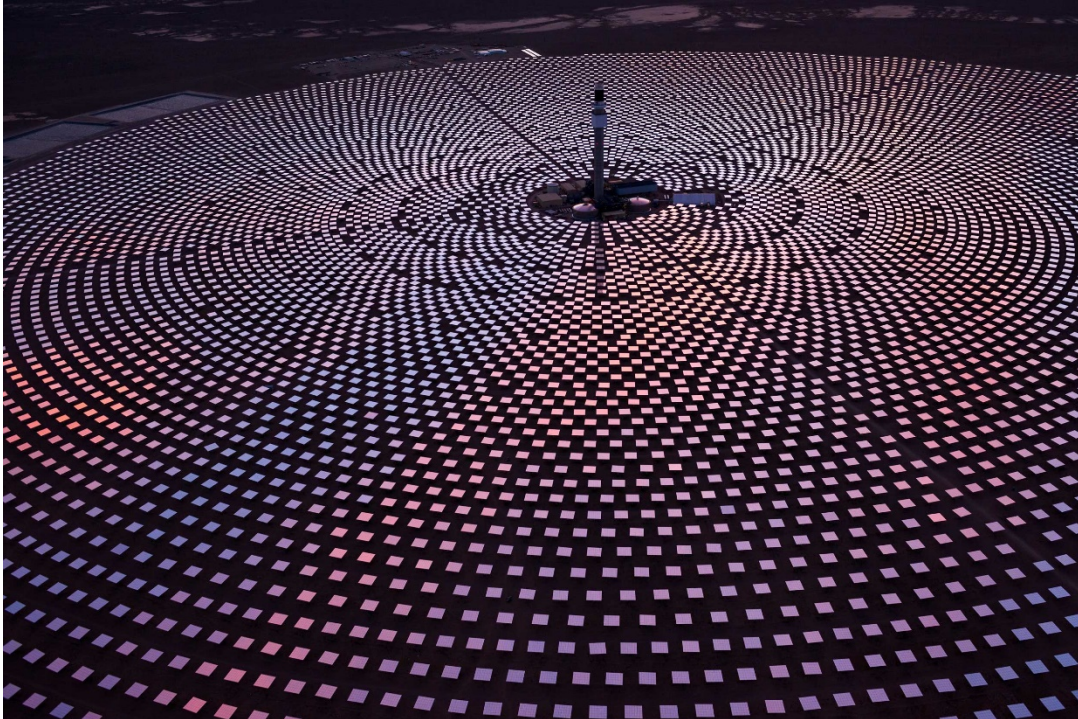
DEFENDANTS

11. Seeking Alpha Inc. is a Delaware Corporation, with its principal place of business at 52 Vanderbilt Avenue Floor 13, New York, NY 10017, and can be served by serving its Registered Agent, MWE CORPORATE SERVICES, LLC, 1007 North Orange Street, 10th Floor, Wilmington, DE 19801.

Darren James McCammon is an individual residing in Washoe county, state of Nevada and can be served at 1429 Sioux Trail, Reno, NV 89521.

THE COPYRIGHTED WORK AT ISSUE

In 2014, Stillings created the photograph entitled “20140626_CP_04365”, which is shown below and referred to herein as the “Work”.



Stillings registered the Work with the Register of Copyrights on July 9, 2014 and was assigned the registration number VAu 1-243-581. The Certificate of Registration is attached hereto as Exhibit 1.

Stillings' Work is protected by copyright but is not otherwise confidential, proprietary, or trade secrets.

16. At all relevant times Stillings was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY DEFENDANTS

17. Defendants have never been licensed to use the Work at issue in this action for any purpose.

18. On a date after the Work at issue in this action was created, but prior to the filing of this action, Defendants copied the Work.

19. On or about June 14, 2021, Stillings discovered the unauthorized use of his Work on the Website. The Work was used on the Website on October 10, 2020 blog post by McCammon, titled “Cost Analysis Supports The Continued Use Of Natural Gas For Electricity Production”.

20. Defendants copied Stillings' copyrighted Work without Stillings' permission.

21. After Defendants copied the Work, they made further copies and distributed the Work on the internet to promote the sale of goods and services as part of their regular business activities.

22. Defendants copied and distributed Stillings' copyrighted Work in connection with Defendants' business for purposes of advertising and promoting Defendants' business, and in the course and scope of advertising and selling products and services.

23. Stillings' Works are protected by copyright but are not otherwise confidential, proprietary, or trade secrets.

24. Defendants committed copyright infringement of the Work as evidenced by the documents attached hereto as Exhibit 2.

25. Stillings never gave Defendants permission or authority to copy, distribute or display the Work at issue in this case.

26. Stillings notified Defendants of the allegations set forth herein on October 15, 2021 and December 17, 2021. To date, Defendants have failed to respond to Plaintiff's Notices.

COPYRIGHT INFRINGEMENT

27. Stillings incorporates the allegations of paragraphs 1 through 26 of this Complaint as if fully set forth herein.

28. Stillings owns a valid copyright in the Work at issue in this case.

29. Stillings registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

30. Defendants copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Stillings' authorization in violation of 17 U.S.C. § 501.

31. Defendants performed the acts alleged in the course and scope of its business activities.

32. Defendants' acts were willful.

33. Stillings has been damaged.

34. The harm caused to Stillings has been irreparable.

VICARIOUS COPYRIGHT INFRINGEMENT BY MCCAMMON

35. Stillings incorporates the allegations of paragraphs 1 through 26 of this Complaint as if fully set forth herein.

36. Stillings owns a valid copyright in the Work at issue in this case.

37. Stillings registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

38. McCammon copied, displayed and distributed the Work at issue in this case on the Website. and made derivative of the Work without Stillings authorization in violation of 17 U.S.C. § 501.

39. Seeking Alpha had the right and ability to supervise the infringing activities of McCammon alleged herein.

40. Seeking Alpha had a direct financial interest in the infringing activities alleged herein.

41. As a result of Seeking Alpha's vicarious infringement as alleged above, McCammon obtained direct and indirect profits it would otherwise not have realized but for its infringement of the Work.

42. Stillings has been damaged.

43. The harm caused to Stillings has been irreparable.

WHEREFORE, the Plaintiff Jamey Stillings prays for judgment against the Defendants Seeking Alpha Inc. and Darren James McCammon that:

a. Defendants and their officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;

b. Defendants be required to pay Plaintiff his actual damages and Defendants' profits attributable to the infringement, or, at Plaintiff's election, statutory damages, as provided in 17 U.S.C. § 504;

Plaintiff be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;

d. Plaintiff be awarded pre- and post-judgment interest; and

e. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: February 16, 2023

Respectfully submitted,

/s/ Joseph A. Dunne

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